

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

05-CR-6161L

v.

JOHN NICOLO, DAVID FINNMAN,
and CONSTANCE ROEDER,

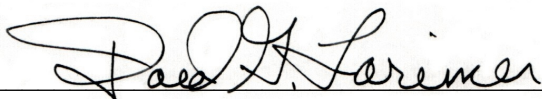
Defendants.

As I indicated at our last court session on February 15, 2008, I requested an opportunity to review the Government's Power Point presentation prior to its display to the jury. I did this in an effort to protect the defendants to prevent impermissible matters from being displayed to the jury, prematurely.

I see no evidentiary issues with much of the presentation. I do, however, believe that those slides that show actual items of physical evidence should *not* be displayed to the jury in opening statement. There are several slides where actual checks or invoices are contained on the slide. Of course, none of those checks or invoices are in evidence, and I believe it is improper to present the actual exhibits in opening statement. They could be summarized as to what the Government expects

to prove, but to show the actual exhibits prior to their receipt in evidence is not proper and those slides should be removed or changed.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
March 3, 2008.